

Docket no: 08-0387.01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS**

In re Application of:)
Jefferson L. Patrick) Examiner: Newhouse,
) Nathan J.
Application no: 10/826,763)
Filed: 04/16/2004) art Unit: 3782
)
Title: BOAT-CARRYING RACK FOR USE) Confirmation no: 1213
ON TRANSPORTING VEHICLES)

CORRECTED APPEAL BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA. 22313-1450

Dear Honorable Commissioner,

Appellant hereby submits this corrected appeal brief responsive to the NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF mailed 05/14/2009 in support of his appeal, notice of which was filed under 37 C.F.R. § 1.191 on Jan. 5, 2009.

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REAL PARTY IN INTEREST

The real party in interest is Jefferson L. Patrick, an individual residing at 103 McKinney Street, Estill Springs, Tenn.

RELATED APPEALS AND INTERFERENCES

There are no other appeals and interferences known to Applicant.

STATUS OF CLAIMS

Appellant is appealing the final rejection of claims 1-6, 9-14 and 16-24.

Claims 7-8 and 15 have been cancelled

STATUS OF AMENDMENTS

No amendments have been submitted after the final rejection mailed 09/04/2008.

SUMMARY OF THE CLAIMED SUBJECT MATTER

All references in this document to material being in the “specification” are taken from the substitute specification included in the response mailed 04/19/2007. References designated “RCE” are taken from portions the specification as amended in the RCE mailed 11/19/2007. It is also noted that the paragraph beginning at pg. 8 ln. 11 in the RCE is a duplication of the paragraph beginning at pg. 6 ln. 15, and should be ignored.

INDEPENDENT CLAIM 1

Claim 1 is directed to an accessory rack (10 of Fig. 1) for supporting and carrying small boats on a transporting vehicle having front and rear platform sites extending across a width of a front and rear of the vehicle (Figs. 2, 3; pg. 6 lns. 8-10 of RCE). Front and rear assemblies (12, 14 of Fig. 1) are provided, each having an elongated bottom base member (18, 18a of Fig. 1) attachable across a width of a respective front or rear platform site (pg. 7 lns. 21-23 of the RCE, pg. 8 lns. 1-3 of the RCE). A single upright post (24a, 24 of Fig. 1) is connected at a lower end to the center of the front and rear bottom base members (18a, 18 of Fig. 1, pg. 7 lns. 1-2 of the RCE) so that the front and rear upright posts are generally centered with respect to a width of the vehicle (pg. 7 lns 21-23 of the RCE, pg. 8 lns. 1-7 of the RCE). Elongated front and rear boat-receiving cross members (20a, 20 of Fig. 1) are

connected at a center thereof to an upper end of respective front and rear upright posts (pg. 7 lns. 1-6 of the RCE). The elongated boat-receiving cross members are generally parallel to the elongated front bottom base members (Figs. 1-3)

DEPENDENT CLAIM 2

Claim 2 further defines the front and rear upright posts as each having a lower upright post portion (30, 30a of Fig. 1) attached to the center of a respective one of said elongated front and rear bottom base members (18a, 18 of Fig. 1; pg. 5 lns. 5-6 of specification). An upper upright post portion (32, 32a of Fig. 1) is attached to the center of a respective one of the front and rear boat-receiving cross members (20a, 20 of Fig. 1; pg. 9 lns. 9-10 of the RCE), the lower and upper upright post portions (30, 30a, 32, 32a of Fig. 1) configured to be removably and adjustably engagable with each other so that the boat-receiving cross members are locked at a selected height and centered over the vehicle widthwise (pg. 5 lns. 11-17 of the specification).

DEPENDENT CLAIM 3

Dependent claim 3 provides an upturned arm (22a, 22 of Fig. 1) at each of the ends of the boat-receiving cross member (20, 20a of Fig. 1; pg. 9 lns. 13-14 of the specification).

DEPENDENT CLAIM 4

The accessory rack as defined in claim 2 wherein the lower and upper post portions (30, 30a, 32, 32a of Fig. 1) are constructed of rectangular or square metal tubing (Fig. 1, pg. 4 lns. 16-17 of the specification). Also, each of the upper and lower post portions are provided with alignable, vertically spaced-apart holes (37 of Fig. 3) to allow a locking member (34, 34a, 35, 35a of Fig. 1) to be inserted through the upper and lower portions, locking a respective boat-receiving cross member (20, 20a of Fig. 1) at a selected height (pg. 5 lns. 11-17 of specification).

DEPENDENT CLAIM 5

Claim 5 provides that the transporting vehicle is an ATV (Fig. 2, pg. 6 ln. 20 of RCE).

DEPENDENT CLAIM 6

Claim 6 provides that the front and rear bottom base members (18a, 18 of Fig. 1) extend across a width of each said platform site (Figs. 2, 3), and are attachable thereto with U-bolts (21, 21a of Fig. 2; pg. 7 lns. 7-13 of specification).

7 (cancelled).

8 (cancelled).

DEPENDENT CLAIM 9

Claim 9 provides that each upper post portion (32, 32a of Figs. 1) and boat-receiving cross member (20, 20a of Figs. 1, 2) further comprises an elongated middle portion (42, 42a of Figs. 1, 4) generally parallel to a respective bottom base member (18, 18a of Figs. 1, 5) and connected at the center thereof to an upper end of a respective upper post portion (32, 32a of Fig. 1; pg. 9 lns. 9-11 of RCE). A boat-receiving end portion is provided for each of the opposed ends of the middle portions (Figs. 48, 48a of Figs. 1, 4; pg. 9 lns 12-15 of RCE), each boat-receiving end portion removably, adjustably and lockably engaged with a respective end portion to provide said cross member with a selected width (pg. 9 lns 15-20 of RCE). A stub portion (50, 50a in Fig. 1) attached to a center of each middle portion is provided for removably and slidably receiving and locking to the upper beam member (16 in Fig. 1; pg. 10 lns. 5-9 of RCE). The beam 16 is adaptable so that a user may select a length of the rack (pg. 10 lns. 10-15 of RCE).

DEPENDENT CLAIM 10

Claim 10 provides that each middle portion (50, 50a in Fig. 1) is about 2 feet in length, and extends about one foot to either side of a top of a respective upper post portion (pg. 9 lns. 9-11 of RCE).

DEPENDENT CLAIM 11

Claim 11 provides that the lower upright post portions (30, 30a in Figs. 1, 2) are about half the height of a respective post (pg. 5 lns. 5-9 of specification).

DEPENDENT CLAIM 12

Claim 12 provides that each said upper post portion (30, 32 of Figs. 1, 2) may be adjusted and locked within a respective lower post portion (34, 35, 34a, 35a of Fig. 1, 37 of Fig. 3; pg. 5 lns. 11-17 of RCE) at a height so that a top of the upper post portion and elongated middle portion is about 3 feet over the vehicle (pg. 5 ln. 11 of RCE).

DEPENDENT CLAIM 13

Claim 13 provides that the front bottom base member (18a of Fig. 1) is about 33 inches in length and the rear bottom base member (18 of Figs. 1, 5) is about 43 inches in length (pg. 8 lns. 20-21 of RCE).

DEPENDENT CLAIM 14

Claim 14 provides that the upper post portions (32, 32a of Fig. 1) may be adjusted and locked (34, 34a, 35, 35a of Fig. 1, 37 of Fig. 3) within the lower post portions so that a top of the upper post portions are about 3 feet above a respective bottom base member (18, 18a of Fig. 1; pg. 5 lns. 8-17 of RCE).

15 (cancelled).

DEPENDENT CLAIM 16

Dependent claim 16 provides a plurality of gear attachments (58, 58a of Fig. 1, 70, 70a of Figs. 3, 5, 71 of Fig. 4) attached to the rack, each gear attachment having an opening (60, 60a of Fig. 1) for receiving a tie-down, the gear attachments being adjacent at least one of a center of each elongated middle portion (42, 42a of Fig. 1), at least one end of a mounting base member (18, 18a of Fig. 1) and at an upper end of each said lower upright post portion (58, 58a of Fig. 1; pg. 6 lns. 21-23 of specification, pg. 7 lns. 3-6 of specification).

INDEPENDENT CLAIM 17

Independent claim 17 provides that the rack has a front and rear end assemblies (14, 12 of Fig. 1, generally shown in Fig. 2) mounted to respective front and rear cargo racks (pg. 7 lns. 21-23 of RCE, pg. 8 lns. 1-2 of RCE). Each of these assemblies has mounting means (base members 18, 18a of Fig. 1, U-bolts 21, 21a of Fig. 2, U-bolts 72, 72a of Fig. 3) for removably mounting the front and rear end assemblies to a respective cargo rack (generally shown in Fig. 2; pg. 7 lns. 7-13 of specification), the racks each further having a single, adjustable-in-height vertical support means (pg. 8 ln. 5 of RCE, pg. 5 lns. 11-17 of specification, posts 24, 24a of Fig. 1, lower post portions 30, 30a, upper post portions 32, 32a of Fig. 1, bolts 34, 34a, 35, 35a of Fig. 1, openings 37 of Fig. 3) attached to the mounting means

(base members 18, 18a of Fig. 1) so that the single, adjustable-in-height vertical support means (in Fig. 1, posts 24, 24a, lower post portions 30, 30a, upper post portions 32, 32a, bolts 34, 34a, 35, 35a, openings 37 in Fig. 3) is generally centered widthwise with respect to the cargo rack (generally shown in Figs. 2, 3) over a middle of a respective front or rear of the vehicle (Fig. 2; pg. 8 lns. 5-7 of RCE). The elongated horizontal support means (In Fig. 1, cross members 20, 20a, middle portions 42, 42a, arms 48, 48a, end portions 22, 22a, in Fig. 4, middle portions 42, bolt 43, lock nut 44, weld 45, arm 48 of Fig. 4; pg. 8 lns. 2-4 of RCE) are attached at a center thereof to a top of the single, adjustable-in-height vertical support means (in Fig. 1, posts 24, 24a, lower post portions 30, 30a, upper post portions 32, 32a, bolts 34, 34a, 35, 35a, In Fig. 2 posts 24, 24a, In fig. 3, openings 37). The elongated horizontal support means (In Fig. 1, cross members 20, 20a) are oriented to extend widthwise over a respective front or rear of the vehicle (generally shown in Fig. 2; pg. 8 lns. 5-7 of RCE), for receiving a boat or other elongate objects. Connection means (In Fig. 1, beam 16 including stub portions 50, 50a, sleeve 52, bolts 54, 54a, sleeve 52 of Fig. 2) are connected between the center of the elongated horizontal support means of the front end assembly and the center of the elongated horizontal support means of the rear end assembly (middle portions 42, 42a of Fig. 1, pg. 10 lns. 5-13 of RCE). The connection means extends lengthwise over a middle of the vehicle (generally shown in Fig. 2), for connecting said front end assembly and said rear end assembly together (Figs. 1,2, pg. 10 lns. 13-15 of RCE). A boat may be

supported lengthwise over a middle of the vehicle (generally shown in Fig. 2) by a single, adjustable-in-height vertical support means (24, 24a in Fig. 1) over a respective front or rear portion of the vehicle (Fig. 2; pg. 10 lns 13-15 of RCE).

DEPENDENT CLAIM 18

Dependent claim 18 provides that the single vertical support means (24, 24a in Fig. 1) includes a first vertical support portion means (lower post portions 30, 30a in Fig. 1) attached to the mounting means (base members 18, 18a in Fig. 1) so that the first vertical support portion means (lower post portions 24, 24a in Fig. 1) are generally centered widthwise on the cargo rack (Figs. 2, 3; pg. 5 lns. 5-7 of specification). A second vertical support portion means (upper post portions 32, 32a in Fig. 1) lockably, removably and adjustably engaging the first vertical support portion means (bolts 34, 35, 34a, 35a in Fig. 1, openings 37 in Fig. 3; pg. 5 lns. 7, 11-17 of RCE), for locking the second vertical support portion means at a selected height over a respective front or rear of the vehicle, and for being removable, the first and second vertical support portion means being locked together at a selected height, forming the single, adjustable-in-length vertical support means (pg. 5 lns 11-17 of specification).

DEPENDENT CLAIM 19

Claim 19 provides that each elongated horizontal support means (cros

members 20, 20a in Fig. 1) includes elongated middle portion support means (middle portions 42, 42a in Fig. 1) having opposed ends and attached at the center thereof to an upper end of the second vertical support means (upper post portions 32, 32a of Fig. 1), for supporting a boat, other elongate objects or the like by second vertical support means (pg. 9 lns. 9-10 of RCE). End portion means (arms 48, 48a in Fig. 1) are removably, lockably and adjustably engage each end of the opposed ends of the middle portion support means, for locking the elongated horizontal support means at a selected width and for being removable (pg. 9 lns. 12-20 of RCE).

DEPENDENT CLAIM 20

Dependent claim 20 provides that the connection means (beam 16 in Fig. 1) includes a single short connection means (stubs 50, 50a in Fig. 1) attached to the center of each elongated middle portion support means (middle portions 42, 42a in Fig. 1), each single short connection means being in facing relation (pg. 10 lns. 5-6 of RCE). An elongated, single connection means (beam 16 in Fig. 1) is connected at one end to the single short connection means (stub 50a in Fig. 1) of one of the elongated middle portion support means (middle portion 42a in Fig. 1) and the other end of the elongated single connection means (beam 16 in Fig. 1) is connected to the short connection means (stub 50 in Fig. 1) of the elongated middle portion support means (middle portion 42 in Fig. 1) of the rear end assembly (12 in Fig. 1). These members, connected as described, stabilize the front and rear

assemblies, with the elongated single connection means (beam 16 in Fig. 1) extending lengthwise over a middle of the vehicle (Fig. 2; pg. 10 lns. 5-15 of RCE).

DEPENDENT CLAIM 21

Claim 21 provides that a plurality of strengthening means (gussets 26, 26a, plates 28, 28a in Fig. 1) are attached between each mounting means (base members 18, 18a in Fig. 1) and a respective first vertical support means (lower portions 30, 30a in Fig. 1), between each elongated middle portion support means (middle portions 42, 42a in Fig. 1) and a respective vertical support means (upper portions 32, 32a in Fig. 1), and a respective said short connection means (50, 50a in Fig. 1; pg. 3 lns. 5-8 of specification, pg. 8 lns. 7-9 of RCE).

INDEPENDENT CLAIM 22

Claim 22 provides a method for carrying a boat above a vehicle that includes mounting respective first and second single vertical supports (12, 14 in Fig. 1) so that the first single vertical support (12 in Fig. 1) extends upward over a middle of a width of front of a vehicle and the second vertical support extends upward over a center of the rear of the vehicle (Fig. 2, 3; pg. 8 lns. 4-7 of RCE, pg. 9 lns. 1-3 of RCE). First and second boat-receiving members (20, 20a in Fig. 1) are connected to an end of respective first and second single vertical support (12, 14 in Fig. 1), the first and second boat-receiving

members (20, 20a in Fig. 1) being horizontally disposed along a width of the vehicle (Figs. 2, 3) and attached at their centers to a top of the first and second vertical supports (12, 14 in Fig. 1, Fig. 3; pg. 7 lns. 1-6 of RCE, pg. 8 lns. 5-7 of RCE). A connecting member (16 in Fig. 1) connects the first boat-receiving member (20 in Fig. 1) and said second boat-receiving member (20a in Fig. 1) together, the connecting member (16 in Fig. 1) extending over the middle of the vehicle (Fig. 3, pg. 10 lns. 5-15 of RCE).

DEPENDENT CLAIM 23

Claim 23 provides adjusting a height of the first and second boat-receiving members over the vehicle (34, 35, 34a, 35a of Fig. 1; 37 of Fig. 3) to accommodate height of an operator (pg. 5 lns. 11-18 of specification).

DEPENDENT CLAIM 24

Claim 24 provides adjusting a width of the first and second boat-receiving members (43, 44, 45 of Fig. 4) to accommodate boats of differing widths (pg. 9 lns 15-20 of RCE).

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1 and 22 are anticipated under 35 USC §102 by the reference to Shumante (US 5,544,798).

Whether claims 1-4, 9-15, 17-20 and 22-24 are unpatentable under 35 USC §103(a) over the reference to Armstrong (US 6,517,134) in view of Oliver (US 3,819,074).

Whether claim 5 is unpatentable under 35 USC §103(a) over the reference to Armstrong (US 6,517,134) in view of Oliver (US 3,819,074) and Toivola (US 6,126,052).

Whether claim 6 is unpatentable under 35 USC §103(a) as being unpatentable over the reference to Armstrong (US 6,517,134) in view of Oliver (US 3,819,074), Toivola (US 6,126,052) and Muzzi (5662451).

Whether claim 16 is rejected under 35 USC §103(a) as being unpatentable over Armstrong (US 6,517,134) in view of Oliver (US 3,819,074) and Whiting (US 4,630,990).

Whether claim 21 is unpatentable under 35 USC §103(a) over Armstrong (US 6,517,134) in view of Oliver (US 3,819,074), Toivola (US 6,126,052) and Vieira (US 5.560,666).

ARGUMENT

REJECTION OF CLAIMS 1, 22 UNDER 35 USC §102(b) OVER THE REFERENCE TO SHUMANTE ET. AL. (US 5,544,798)

CLAIM 1

The reference to Shumante et al (hereafter Shumante) teaches an article carrier mountable in a pickup truck bed. As shown in Fig. 1 and discussed at col. 2 lns. 56-67, the carrier is mounted and stabilized in the bed by straps 21 extending between attachment points 18 on an upper longitudinal member 13 of the carrier to “cargo hooks or rings 20, along the side walls as shown in Fig. 1”. At each end of his carrier is a vertical post 16, 16’ extending upward about 5 feet over the bed of the truck and above cab 11, with a transverse bar 14, 14’ about 4 to 6 feet in length mounted to the top of each vertical post. Eye bolts 26, 26’ at each end of the transverse bars provide attachment points for securing canoes to the transverse bars. A post foot 17, 17’ is attached to the bottom of each post, and rests on the truck bed.

Applicant’s claim 1 provides, in the preamble, “An accessory rack for supporting small boats on a transporting vehicle having available a front platform site extending generally across a width of a front of said vehicle...”.

Applicant thus claims the provision of two platform sites. This feature is not found in Shumante, as the front of the vehicle of Shumante is not shown. As such, the carrier of Shumante rests exclusively on a single rear platform, namely the bed of a pickup truck vehicle. It is respectfully submitted no inference may be drawn by which to reject claim 1 from features that are not shown or described in the prior art. Please see MPEP 2131 and *In re Verdegaaal Bros. V Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987),

“A claim is anticipated only if each and every element as set forth in claim is found, either expressly or inherently described, in a single prior art reference”.

Applicant's claim 1 further provides “a front assembly having an elongated front bottom base member attachable across a width of said front platform site and a rear assembly having an elongated rear bottom base member attachable across a width of said rear platform site”. It is respectfully submitted that the carrier of Shumante is not attachable “across a width” of a platform. Rather, it is attachable using straps attached “along side walls” (col. 2 lns. 59-64) to “conventional hooks or rings as usually mounted on the inside walls of most pickup trucks” (col. 2 lns. 4-6).

CLAIM 22

Applicant's claim 22 provides “mounting a first single vertical support so that said first single vertical support extends upward over a

middle of a front of said vehicle...". This feature is not found in Shumante as his carrier extends exclusively over the bed, or rear, of a pickup truck. As noted above, the front of the vehicle in Shumante is not shown. It is respectfully submitted that no inference may be drawn by which to reject claim 22 from features that are not shown or described in the prior art. Please see *In re Verdegaal Bros. V Union Oil Co. of California* (citation omitted) as applied to claim 1 above.

REJECTION OF CLAIMS 1-4, 9-15, 17-20 AND 22-24 UNDER 35 USC §103(a) OVER ARMSTRONG (US 6,517,134) IN VIEW OF OLIVER (US 3,819,074)

INDEPENDENT CLAIM 1 AND DEPENDENT CLAIMS 2-4

The reference to Armstrong teaches a pair of separate, unconnected T-shaped support racks 10. The racks are each constructed having a lower vertical member 22 that attaches at its bottom to a truck bed by a bracket 56, and is attachable to sides of the vehicle or to a bed toolbox by like brackets 56. An upper horizontal member 24 is slidably disposed on each lower member 22 and pinned thereto. Adjustable-in-width vertical retention structures 20 extend upward from each end of horizontal members 24. When pins 60 holding respective racks to their upper brackets 56 are removed, the racks pivot about pins 60 in respective lower brackets 56 so that the carriers are foldable to rest in the bed of the truck, as shown in Fig.

4.

The reference to Oliver teaches a boat loading and carrying apparatus having an intermediate support member 26 that connects “between the upper end of front support member 19 and rack 13 to hold the upright support member erect when the boat is being drawn to the loaded position.” (col. 2 lns. 41-45). Member 26 is fitted and pinned at one end into a sleeve 44 affixed to the underside of a lateral support member 28, and fitted and pinned at the other end to a sleeve 45 attached to support 19.

The Office has stated in the final rejection mailed 09/04/2008 that “Armstrong discloses an accessory rack... with a front platform site extending generally across the width of the front of the vehicle...”. However, as noted above, the front of the vehicle is not shown in Armstrong, and only a single rear platform, i.e. the truck bed, is disclosed. Therefore, it is respectfully submitted that there is no basis for “a front platform site (Figs. 2, 3) extending generally across a width of a front of said vehicle” evident in Armstrong. Here, the reference to Armstrong suffers the same defect as Shumante in that the entire device of Armstrong is mounted to a single platform in the bed, or rear, of a pickup truck, with the front of the truck not being shown. Thus, it is respectfully submitted that this claim feature cannot be found in Armstrong. Please see *In re Royka*, 490 F.2d 981, 985 (CCPA 1974),

“All words in a claim must be considered in judging the patentability of that claim against the prior art”

and *In re Wada and Murphy*, appeal 2007-3733, wherein the Board stated that the Office must make

“a searching comparison of the claimed invention-including all its claim limitations-with the teaching of the prior art”

With respect to combining the connecting member of Oliver with the racks of Armstrong, the Office states “it would have been obvious to one of ordinary skill in the art at the time of invention to include a single elongated upper beam between the front and rear assemblies of Armstrong, in order to give strength to the accessory rack when it is in a working position”.

In this portion of the rejection to claim 1, it is respectfully submitted the Office fails to provide a legally valid reason for this combination. Please see *In re Rouffet* (47 USPQ2d 1453 (Fed. Cir. 1988), wherein the Federal Circuit explained:

To reject claims in an application under section 103, an examiner must show an unrebutted prima facie case of obviousness. In the absence of a proper prima facie case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent”.

In this decision, the Board was reversed and the rejections ruled improper because they failed to provide a suggestion for combining the

references. Here, the court stated:

As this Court has stated, “Virtually all [inventions] are combinations of old elements” Therefore, an examiner may often find every element of a claimed invention in the prior art. If identification of each claimed element in the prior art were sufficient to negate patentability, very few patents would ever issue. Furthermore, rejecting patents solely by finding prior art corollaries for the claimed elements would permit an examiner to use the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention. Such an approach would be “an illogical and inappropriate process by which to determine patentability”. To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness.

Merely stating an advantage of combining references to reject Applicant’s claim 1 is not the same as “show[ing] a motivation to combine the references”.

More recently, in *KSR Int’l v Teleflex Inc.*, 127 S. Ct. 1727, 1740-1741, 82 USPQ2d 1385, 1396 (2007), the Supreme Court cited *In re Kahn* with approval, which noted,

“Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”

(*In re Kahn*, 441F.3d 977, 988, CA Fed. 2006). Looking for the “articulated reasoning with some rational underpinning” in the above statement by the Office used to reject claim 1, the first part of the statement, “It would have been obvious... to include a single elongated upper beam between the front and rear assemblies of Armstrong...” merely states what the proposed modification is to be. The last part of the statement, “in order to give strength to the accessory rack when it is in a working position” is a statement of an advantage rather than an “articulated reasoning with some rational underpinning”. MPEP 2144 states “The strongest rationale for combining references is a recognition... in the prior art or... based on scientific principles or legal precedent, that some advantage would have been produced by their combination” (underlining added). *In re Sernaker*, 702 F.2d 989, 994-995 (Fed. Cir. 1983) supports this proposition, stating

“The lesson of this case appears to be that prior art references in combination do not make an invention obvious unless something in the prior art references would suggest the advantage to be derived from combining their teachings”.

The court makes it clear that the advantage is not the suggestion, but something else suggests the advantage. In other words, the strongest rationale is a recognition (i.e. a suggestion) in the prior art that an advantage will result.

It is respectfully submitted a connecting member 26 as found in Oliver used to connect between the racks of Armstrong, as suggested by the Office, would serve no purpose or provide any advantage whatsoever to motivate one of average skill in the art to make such a combination. This is because the racks of Armstrong already are provided with brackets 56 that stabilize, strengthen and hold the racks upright. The extent of such stabilization is seen at col. 1 lns. 63-65, "When the rack system is employed as a working station, a sheet of plywood is placed thereon to provide a scaffold platform upon which a person can stand.". Thus, no advantage or improvement would result in Armstrong by the proposed modification. As there is no suggestion in the art of any other advantage, and no articulated reasoning with a rational underpinning to explain the combination, it is respectfully submitted that the proposed combination completely lacks motivation to combine.

In addition, an elongated connecting member between the racks of Armstrong would make the racks inoperable or unsuitable for their intended purpose, which is to fold down into the bed of the pickup truck simply by removing the pin in each of the upper brackets 56, as discussed at col. 4 lns. 58-63 (please see MPEP 2143.01(V)). Further, at col. 1 lns. 57-59, Armstrong states "Each of the embodiments of the rack system can be installed, removed and adjusted by one person". The addition of the connecting member of Oliver would make such installation, removal and adjustment far

more difficult for one person, and change the principle and operation of installation, removal and adjustment of the rack system (MPEP 2143.01(VI).

Please also see *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984),

“The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification” (emphasis added)

and

“if the French apparatus were turned upside down, it would be rendered inoperable for its intended purpose”.

Please also see *In re Ratti*, 270 F.2d 810, 123 USPQ at 352 (CCPA 1959),

“This suggested combination of references would require a substantial reconstruction and redesign of the elements shown... as well as a change in the basic principles under which the Chinnery et al. construction was designed to operate”.

DEPENDENT CLAIMS 9-12

With respect to claim 9, the Office is correct in that the reference to Armstrong does not disclose a stub portion attached to the center of the middle portion. It is respectfully submitted that there is no motivation evident in Armstrong for attaching such a stub portion (from Oliver) and associated beam member to the center of a middle portion of Armstrong for receiving an upper beam member because, as noted above with respect to the 35 USC 103 rejection to claim 1, such an upper beam member is completely unnecessary in Armstrong and would not provide any additional

advantage. Please see *In re Sernaker* (citations omitted) as applied to the 35 USC 103 rejection to claim 1 above.

DEPENDENT CLAIM 13

Claim 13 provides specific length dimensions for the front and rear bottom feet so that these feet may be "attachable across a width" of the front and rear platform sites. In contrast, the reference to Armstrong discloses a short bracket fastened to the bed of the truck comprising vertical tabs having apertures alignable with openings in the support structures 18, and through which a locking pin is passed (Fig. 1, col. 4 lns. 38-58). This bracket of Armstrong is not "attachable across a width" of the pickup truck bed, but only extends along a small portion of the width of the bed. Further, there is no advantage or improvement to be found in extending the width of the brackets of Armstrong. Please see *In re Sernaker* (citations omitted) as applied to claim 1 above.

DEPENDENT CLAIMS 14-15

Claim 14 provides that the front and rear upper post portions are adjustable to a position where the top of the post portions are about 3 feet from the bottom base members mounted to the cargo racks. Here, Armstrong requires that the height of his racks be substantially longer than 3 feet, otherwise the racks would not be able to carry an elongated object over the cab of the truck. Please see Figs. 2, 3 of Armstrong. By simply

measuring distance from the bed to the top of a cab of a small pickup truck, it is evident that a rack such as Armstrong of about 3 feet would not allow carrying of an elongated object over the cab. A distance of about 4 feet is required for even the smallest of trucks. Thus, Armstrong would be unworkable for its intended purpose to carry elongated objects over the cab of his truck with a rack height of about 3 feet.

In re Boesch, 617 F.2d 272 is cited by the Office in support of this rejection. However, *In re Boesch* relates to compositions, and there was a question of overlap between the *Boesch* claims and the prior art, and whether there was only a minor change of ingredients. The *Boesch* court stated,

“we agree with the Solicitor that the prior art would have suggested “the kind of experimentation necessary to achieve the claimed composition, including the proportional balancing described by appellants’ N v equation.” This accords with the rule that discovery of an optimum value of a result effective variable in a known process is ordinarily within the skill of the art”.

Thus, the *Boesch* court addressed optimizing composition values in known processes. It is respectfully submitted that such application of optimizing values of compositions does not extrapolate to the subject matter of the instant invention or to the instant fact situation. Here, while a height of about 3 feet, as provided by claim 14, is perfectly suitable for Applicant’s racks, such a height would render the racks of Armstrong inoperable for

their intended purpose, which includes carrying an elongated object over the cab of the truck as noted above. Thus, it is respectfully submitted there would be a complete lack of motivation by one skilled in the art to shorten the racks of Armstrong to 3 feet. This is a different situation than the minor composition changes dealt with by the *Boesch* court.

INDEPENDENT CLAIM 17 AND DEPENDENT CLAIMS 18, 19

Applicant's claim 17 stipulates a "vehicle provided with a front cargo rack for carrying gear over a front of the vehicle and a rear cargo rack for carrying gear over a rear of the vehicle...". As noted above, there is no showing of a front of a vehicle in Armstrong, nor is there any discussion of the front of the vehicle of Armstrong, as exemplified by his Figs. 2 and 4, which truncate the vehicle just forward of the bed of the truck. It is respectfully submitted that Armstrong cannot be relied on for any teaching related to "carrying gear over a front of the vehicle". As noted above, Armstrong also only shows a single rear platform, i.e. the bed of a truck, in which the entire rack is mounted. Please see *In re Royka*,

"All words in a claim must be considered in judging
the patentability of that claim against the prior art"

and *In re Wada and Murphy*, appeal 2007-3733, wherein the Office must make

"a searching comparison of the claimed invention-
including all its claim limitations-with the teaching
of the prior art".

The “front end assembly mounted to the front cargo rack and rear end assembly mounted to said rear cargo rack” each further comprises “mounting means for removably mounting said front end assembly and said rear end assembly to a respective said front cargo rack and said rear cargo rack...”. This clause is a means-plus-function clause that is required to be interpreted by 35 USC 112, 6th paragraph, which states in part,

“such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.”.

As dictated by *In re Donaldson Co.*, 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994),

“The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof.”

As such, it is respectfully submitted the Office is in error with respect to its analysis of claim 17. Here, the Office states with respect to Armstrong, “front and rear end assemblies 10 are mounted to front and rear vehicle cargo racks... with means for removably mounting and front and rear assemblies (bolts 54, fig. 3)”. As disclosed in Applicant’s specification at pg. 5 lns. 2-3 and shown in Fig. 3, “base members are connected to cross members of installed racks by means such as U-bolts 21 (Fig. 3) provided at each corner”.

As noted above, there is no corresponding showing whatsoever in Armstrong of a “front cargo rack...” as stipulated in Applicant’s means-plus-function clause, and disclosed in Fig. 2 and throughout his specification, such as pg. 7 lns. 7-8 of the specification. If the bed of the truck of Armstrong is considered to be a cargo rack, then there is only a single, rear cargo rack in Armstrong.

Armstrong uses a bracket intended to be left in place in the bed of the truck and separable from his vertical support, with the vertical support attached to the bracket by a single pin, which may be removed (in conjunction with a pin in the wall bracket) to allow removal of his support rack (Fig. 1, sentence bridging cols. 4 and 5 of Armstrong). This structure of Armstrong is contrary of Applicant’s claimed mounting structure of being “removably mounted”. Here, Applicant’s disclosure provides that his entire structure, including all of the “mounting means”, is removably mounted to the cargo racks. No portion of Applicant’s structure is left behind mounted to the cargo racks when the racks are removed. Accordingly, it is respectfully submitted that Applicant’s structure and function related to his “mounting means” of the front and rear assemblies as disclosed and claimed are not analogous to the structure and function of Armstrong.

Applicant further specifies “a single, adjustable-in-height vertical

support means... over a middle of a respective front or rear of said vehicle...” and “elongated horizontal support means... oriented to extend widthwise over a respective front or rear of said vehicle...” (Fig. 2, components 20, 20a). Again, it is respectfully submitted there is no teaching whatsoever in Armstrong of anything related to a front of his vehicle.

Claim 17 further specifies “connection means connected between said center of said elongated horizontal support means of said front end assembly and said center of said elongated horizontal support means of said rear end assembly...” (Fig. 1, component 16). No such “connection means” is disclosed in Armstrong. Rather, this component is taken from the reference to Oliver. Here, as noted above, it is respectfully submitted there is no advantage to be gained or improvement to be found in such a “connection means” to hold the racks of Armstrong upright and provide strength, as noted above with respect to claim 1. The reason for this is that Armstrong already relies on brackets 56 and pins 60 attached to side, vertical walls of his truck or toolbox for such stabilization and strength. Please see *In re Sernaker* (citation omitted) as applied to claim 1 above. Further, Applicant’s “connection means” is a three-part component having a central connection sleeve and discrete front and rear bars so that a distance between the front and rear assemblies may be customized (Fig. 1 stubs 50, 50a, beam members 55, 55a, sleeve 52 and bolts 54, 54a), pg. 10 lns. 5-15 of the RCE). No such corresponding structure is found in Oliver.

Applicant's "whereby" clause of claim 17 provides "a boat, other elongate objects or the like are supported lengthwise... by a said single, adjustable-in-height vertical support means over a front portion of said vehicle and a said single vertical support means over a rear portion of said vehicle". As noted, there is no showing in Armstrong of anything related to "a front portion of said vehicle".

CLAIM 20

With respect to claim 20, the Office relies on the reference to Oliver for the "connection means" of claim 17, and which incorporates the "elongated horizontal support means" of claim 19. Here, Applicant specifies "a single short connection means attached to said center of each said elongated middle portion support means". Claim 20 is a means-plus-function claims required to be interpreted under 35 USC 112, 6th paragraph.

While Oliver discloses sleeves 44, 45 for receiving a beam 26 (Fig. 5), there is no "end portion means..." or "elongated horizontal support means having opposed ends and attached at said center thereof to an upper end of said second vertical support means... for supporting a boat, other elongate objects or the like..." as specified in claim 19 "over a rear portion of said vehicle..." as set forth in claim 17. Rather, at the rear of his vehicle, Oliver discloses a pair of longitudinal members supported at their ends to gutters

of a vehicle, with a second beam-receiving sleeve attached to the forward longitudinal member. Thus, it is respectfully submitted that all the claim elements of claim 20 are not found in the combination of Armstrong and Oliver. Also as noted above, the combination of Armstrong and Oliver lacks motivation to combine as there is no improvement or advantage to be gained by adding the beam 26 of Oliver to Armstrong.

CLAIMS 22-24

Applicant's claims 22-24 claim a method for carrying a boat above a vehicle using a single support extending over a front of the vehicle and a single support extending over a rear of the vehicle, mounting a boat-receiving cross members at the top of the single supports, and connecting the front and rear supports together. These claims are rejected without explanation other than "use of the structure disclosed by Armstrong as modified by Oliver discloses this method". Applicant respectfully refers to *In re Kahn*, 441 F.3d 997, 988 (CA Fed. 2006), cited with approval in *KSR Intl co. v Teleflex Inc.*, 550 U.S. 398, 127 S.Ct. 1727 (2007), "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness".

**REJECTION OF CLAIM 5 OVER ARMSTRONG (US 6,517,134) IN VIEW
OF OLIVER (US 3,819,074) AND TOIVOLA (US 6,126,052)**

Claim 5 is rejected over Armstrong in view of Oliver in view of Toivola. The reference to Toivola teaches a carrier having 4 posts, each attached generally at a corner of an ATV (Fig. 1). With respect to this rejection, the Office states “It would have been obvious to one of ordinary skill in the art at the time of invention to carry the accessory rack of Armstrong as modified on an ATV to allow the boat to be carried where only an ATV may travel”. Applicant respectfully submits that the Office has not provided any particular modification or guidance as to how the prior art suggests Applicant’s invention of claim 5, but instead has only provided a conclusory statement. Please see *In re Kahn* (citation omitted) as applied to claim 22 above.

In addition, it is respectfully submitted that the rack system of Toivola would need to be redesigned in order to function as claimed by Applicant, which would change its principle of operation from a carrier based on four posts at corners of an ATV to a single post in the front and a single post in the rear of the ATV. Please see *in re Ratti* (citation omitted) as applied to the 35 USC 103 rejection of claim 1 above.

**REJECTION OF CLAIM 6 OVER ARMSTRONG (US 6,517,134) IN VIEW
OF OLIVER (US 3,819,074), TOIVOLA (US 6,126,052) AND MUZZI ET. AL.**

(US 5,662,451)

Applicant's claim 6 is rejected over Armstrong in view of Oliver, Toivola and Muzzi. The reference to Muzzi teaches a hoist attachable to a front or rear rack of an ATV by U-bolts. Here, the Office states "Armstrong as modified above discloses that the front and rear bottom base members 54 extend across a width of the attachment site..." (emphasis added). Applicant respectfully submits that there is no "modification above" that would extend brackets 54 of Armstrong "across a width of each said platform site" as claimed by Applicant. In addition, it is respectfully submitted that, as required by *In re Kahn* (citation omitted) as noted above, there is no "articulated reasoning with some rational underpinning..." to support the rejection to claim 6. Instead, there is only the conclusory statement "It would have been obvious to one of ordinary skill in the art to use U-bolts to connect the modified carrying rack to the platforms of an ATV, as they are the conventional fasteners for such a purpose...". Further, it is unclear what advantage would result or improvement would be made by extending the brackets of Armstrong as suggested by the Office.

REJECTION OF CLAIM 16 OVER ARMSTRONG (US 6,517,134) IN VIEW OF OLIVER (US 3,819,074) AND WHITING (US 4,630,990)

With respect to claim 16, the reference to Whiting discloses a three-point carrying system for a boat. The system includes a front longitudinal bar and a rear longitudinal bar across which the boat rests. Tiedowns are

provided at ends of the bars for the attachment of straps to secure the boat.

Applicant's claim 16 provides gear attachments located at at least one of "a center of said elongated middle portion, at least one end of said front mounting base member at least one end of said rear mounting base member, at an upper end of each said lower upright post portion". These claimed locations allow the attachment of gear either centrally with respect to the vehicle or close to a cargo rack of the vehicle. These locations offer more protection of the gear from obstacles such as branches, boulders or rocks and the like than the tiedowns of Whiting, which are located at ends of his upper bars for securing the boat. It is respectfully submitted that there is no teaching in any of the cited prior art that would suggest desirability or advantages of gear attachments at Applicant's claimed locations.

DEPENDENT CLAIMS 2-6, 9-16, 18-21, 23-24

Dependent claims 2-6, 9-16, 18-21, 23-24, in addition to any arguments made above, each incorporate the claim material from claims from which they respectively depend, and should be allowable upon the allowance of their respective independent claim, in addition to any other reasons offered for allowability herein. Please see *In re Fine*, 837 F.2d 1071, 5 USPQ 2d 1596 (Fed. Cir. 1988).

CONCLUSION

In conclusion, Applicant respectfully submits that, in view of the foregoing, the Office has not established a *prima facie* case of anticipation with respect to claims 1 and 22, and has not established a *prima facie* case of obviousness with respect to claims 1-4, 9-15, 17-20 and 22-24.

Respectfully Submitted,

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APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

1. An accessory rack for supporting small boats on a transporting vehicle having available a front platform site extending generally across a width of a front of said vehicle and a rear platform site extending generally across a width of a rear of said vehicle, said accessory rack comprising:

a front assembly having an elongated front bottom base member attachable across a width of said front platform site and a rear assembly having an elongated rear bottom base member attachable across a width of said rear platform site,

a single front upright post connected at a lower end to the center of said front bottom base member of said front assembly so that said front upright post is generally centered with respect to said width of said vehicle,

an elongated front boat-receiving cross member connected at the center thereof to an upper end of said single front upright post, said elongated front boat-receiving cross member being generally parallel to said elongated front bottom base member;

a single rear upright post connected at a lower end to the center of said rear bottom base member of said rear assembly so that said rear upright post is generally centered with respect to said width of said vehicle,

an elongated rear boat-receiving cross member connected at the center thereof to an upper end of said single rear upright post, said elongated rear boat-receiving cross member being generally parallel to said

elongated rear bottom base member;

a single elongated upper beam member extending between said front boat-receiving cross member and said rear boat-receiving cross member, said elongated upper beam member connected to said center of said front boat-receiving cross member and said center of said rear boat-receiving cross member so that said front upright post, said rear upright post and said upper beam member are generally centered over respective portions of said vehicle.

2. The accessory rack as defined in claim 1 wherein each of said front upright post and said rear upright post further comprises:

a lower upright post portion attached to said center of a respective one of said elongated front bottom base member and said elongated rear bottom base member,

an upper upright post portion attached to said center of a respective one of said front boat-receiving cross member and said rear boat-receiving cross member, each said lower upright post portion and said upper upright post portion configured to be removably and adjustably engagable with each other so that said boat-receiving cross member is locked at a selected height over said vehicle and generally centered over said vehicle with respect to said vehicle width.

3. The accessory rack as defined in claim 2 wherein said front boat-

receiving cross member and said rear boat-receiving cross member each has an upturned arm at each end.

4. The accessory rack as defined in claim 2 wherein each of said lower post portion and said upper post portion are constructed of rectangular or square metal tubing, and each provided with a series of alignable, vertically spaced-apart holes to allow a locking member to be inserted through said lower post portion and said upper post portion, locking said boat-receiving cross member at said selected height.

5. The accessory rack as defined in claim 4 wherein said transporting vehicle is an ATV.

6. The accessory rack as defined in claim 5 wherein said front bottom base member and said rear bottom base member extends across a width of each said platform site, and are attachable thereto with U-bolts.

7 (cancelled).

8 (cancelled).

9. An accessory rack as set forth in claim 2 wherein each said upper post portion and said boat-receiving cross member further comprises:

an elongated middle portion generally parallel to said bottom base member and connected at the center thereof to said upper end of said upper post portion, said elongated middle portion having opposed ends,

a boat-receiving end portion for each of said opposed ends, each said boat-receiving end portion configured to be removably and adjustably engaged, and lockable with a respective end of said middle portion to provide said cross member with a selected width,

a stub portion attached to said center of said middle portion, and facing an opposite one of said front assembly and said rear assembly for removably and slidably receiving and locking to said upper beam member, said stub portion being coplanar with and perpendicular to said middle portion, and said upper beam member and each said stub portion being adaptable so that a user may select a length of said rack for a specific said vehicle.

10. An accessory rack as set forth in claim 9 wherein each said middle portion is about 2 feet in length, and extends about one foot to either side of a top of a respective said upper post portion.

11. An accessory rack as set forth in claim 9 wherein said lower upright post portion is about one half a height of said front upright post and said rear upright post.

12. An accessory rack as set forth in claim 11 wherein each said upper post portion may be adjusted and locked within said lower post portion at a height so that a top of said upper post portion and said elongated middle portion is about 3 feet over said vehicle.

13. An accessory rack as set forth in claim 9 wherein said front bottom base member is about 33 inches in length and said rear bottom base member is about 43 inches in length.

14. An accessory rack as set forth in claim 9 wherein said upper post portion may be adjusted and locked within said lower post portion so that a top of said upper post portion is about 3 feet above a said front bottom base member and a said rear bottom base member.

15 (cancelled).

16. An accessory rack as set forth in claim 9 further comprising a plurality of gear attachments attached to said rack, each said gear attachment having an opening for receiving a tie-down, and attached adjacent at least one of:

a center of each said elongated middle portion,

at least one end of said front mounting base member and at least one end of said rear mounting base member,

at an upper end of each said lower upright post portion.

17. An accessory rack for carrying a boat, other elongated objects, and the like lengthwise over a middle portion of a vehicle wherein the vehicle is provided with a front cargo rack for carrying gear over a front of the vehicle and a rear cargo rack for carrying gear over a rear of the vehicle, the front cargo rack and rear cargo rack being generally centered widthwise on the vehicle, said accessory rack comprising:

a front end assembly mounted to said front cargo rack and a rear end assembly mounted to said rear cargo rack, each further comprising:

mounting means for removably mounting said front end assembly and said rear end assembly to a respective said front cargo rack and said rear cargo rack,

a single, adjustable-in-height vertical support means attached to said mounting means so that said single, adjustable-in-height vertical support means is generally centered widthwise with respect to said cargo rack, and thereby over a middle of a respective front or rear of said vehicle,

elongated horizontal support means attached at a center thereof to a top of said single, adjustable-in-height vertical support means, said elongated horizontal support means oriented to extend widthwise over a respective front or rear of said vehicle, for receiving a boat or other elongate objects,

connection means connected between said center of said

elongated horizontal support means of said front end assembly and said center of said elongated horizontal support means of said rear end assembly, and extending lengthwise over a middle of said vehicle, for connecting said front end assembly and said rear end assembly together,

whereby a boat, other elongate objects or the like are supported lengthwise over a middle of said vehicle by a said single, adjustable-in-height vertical support means over a front portion of said vehicle and a said single vertical support means over a rear portion of said vehicle.

18. An accessory rack as set forth in claim 17 wherein each said single vertical support means further comprises:

a first vertical support portion means attached to said mounting means so that said first vertical support portion means is generally centered widthwise on said cargo rack,

second vertical support portion means lockably, removably and adjustably engaging said first vertical support portion means, for locking said second vertical support portion means at a selected height over a respective said front or rear of said vehicle, and for being removable, said first vertical support portion means and said second vertical support portion means being locked together at said selected height, forming said single, adjustable-in-length vertical support means.

19. An accessory rack as set forth in claim 18 wherein each said elongated horizontal support means further comprises:

elongated middle portion support means having opposed ends and attached at said center thereof to an upper end of said second vertical support means, for supporting a boat, other elongate objects or the like by said second vertical support means,

end portion means removably, lockably and adjustably engaging each end of said opposed ends of said middle portion support means, for locking said elongated horizontal support means at a selected width and for being removable.

20. An accessory rack as set forth in claim 19 wherein said connection means further comprises:

a single short connection means attached to said center of each said elongated middle portion support means, each said single short connection means being in facing relation,

an elongated, single connection means connected at one end to said single short connection means of said elongated middle portion support means of said front end assembly and the other end of said elongated single connection means connected to said short connection means of said elongated middle portion support means of said rear end assembly, whereby said front end assembly and said rear end assembly are connected together and stabilized, and said elongated single connection means extends

lengthwise over a middle of said vehicle.

21. An accessory rack as set forth in claim 20 further comprising a plurality of strengthening means attached between each said mounting means and a respective said first vertical support means, between each said elongated middle portion support means and respective said vertical support means, and respective said short connection means.

22. A method for carrying a boat above a vehicle comprising:

mounting a first single vertical support so that said first single vertical support extends upward over a middle of a front of said vehicle, said middle being with respect to width of said vehicle,

mounting a second single vertical support so that said second single vertical support extends upward over said middle of a rear of said vehicle,

providing a first boat-receiving member to an end of said first single vertical support, said first boat-receiving member being horizontally disposed along said width of said vehicle and attached at its center to said top of said first vertical support,

providing a second boat-receiving member to an end of said second vertical support, said second boat-receiving member being horizontally disposed along said width of said vehicle,

using a connecting member, connecting said first boat-receiving

member and said second boat-receiving member together, said connecting member extending over said middle of said vehicle.

23. A method as set forth in claim 22 further comprising adjusting a height of said first boat-receiving member over said vehicle and said second boat-receiving member over said vehicle to accommodate height of an operator of said vehicle.

24. A method as set forth in claim 22 further comprising adjusting a width of said first boat-receiving member and said second boat-receiving member to accommodate boats of differing widths.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None